

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMES RICHARD,

Petitioner,

Vs

9:08-CV-145

DAVID ROCK, Superintendent,

Respondent.

APPEARANCES:

OF COUNSEL:

JAMES RICHARD

Petitioner, Pro Se

02-A-5540

Great meadow Correctional Facility

Box 51

Comstock, NY 12821

HON. ANDREW M. CUOMO

Attorney General of the

State of New York

Attorney for Defendants

Department of Law

120 Broadway

New York, NY 10271

JODI A. DANZIG, ESQ.

Asst. Attorney General

DAVID N. HURD

United States District Judge

ORDER

Petitioner, James Richard, brought this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. By Report-Recommendation dated January 6, 2009, the Honorable Victor E. Bianchini, United States Magistrate Judge, recommended that the petition in this matter be denied and dismissed; and further, that petitioner's motion requesting a stay be denied. The Magistrate Judge also recommend3d that a certificate of appealability not issue.

No objections to the Report-Recommendation have been filed; however, the respondent has urged that the report recommendation be adopted.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Bianchini, the Report-Recommendation is accepted and adopted in whole.

See 28 U.S.C. 636(b)(1).

Accordingly, it is

ORDERED that

1. The petition is DENIED;
2. The petition is DISMISSED in all respects;
3. The petitioner's motion requesting a stay is DENIED; and
4. A Certificate of Appealability will not be issued.

The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.



United States District Judge

Dated: February 10, 2009
Utica, New York.